

FOR THE RELIEF OF SHIGERU YAMADA

JULY 8, 2008.—Referred to the Private Calendar and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2760]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2760) for the relief of Shigeru Yamada, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	2
Committee Consideration	2
Committee Votes	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Performance Goals and Objectives	4
Constitutional Authority Statement	4
Advisory on Earmarks	4
Section-by-Section Analysis	4
Agency Views	5
Additional Views	7

PURPOSE AND SUMMARY

H.R. 2760 would make Shigeru Yamada eligible for adjustment of his status to that of a permanent resident.

BACKGROUND AND NEED FOR THE LEGISLATION

Shigeru Yamada was born in Japan on March 26, 1982. In 1992, when Mr. Yamada was 10 years old, he and his two sisters were brought to the United States from Japan by their mother, a student who came over to the United States on a student visa. They lived in the United States for more than 3 years, during which time Mr. Yamada's mother became engaged to a United States citizen. Had she married her fiancé, she and her children would have been able to obtain lawful permanent residence in the country. Unfortunately, Mr. Yamada's mother was killed in a car accident on September 19, 1995.

After his mother's death, Mr. Yamada and his sisters were raised by their maternal aunt and uncle in Chula Vista, California. Mr. Yamada's natural father was an alcoholic and had been physically abusive to him and his sisters, as well as their mother, in the past. There was no other viable caretaker in Japan.

Thereafter, Mr. Yamada's aunt attempted to formally adopt him, but the adoption was not completed before his 16th birthday (the age cut-off at which adoption by United States citizens no longer provides legal immigration status). Mr. Yamada thus remained in the United States without legal immigration status, unlike his sisters who obtained legal status through adoption and marriage.

In the meantime, Mr. Yamada became a model student, graduating from Eastlake High School with honors in 2000. At Eastlake, he served on student government, participated in numerous community service activities, and excelled at football and wrestling. He was an All-American Scholar and was named "Outstanding English Student" his freshman year. He was also voted the "Most Inspirational Player of the Year" in various sports, both at the junior-varsity and varsity level. He served as vice president of the associated student body his senior year.

For the past 4 years, Mr. Yamada has volunteered to coach the Eastlake High School softball team and has attended Southwestern Community College.

It is through no fault of his own that Mr. Yamada was raised in the United States without legal immigration status. Mr. Yamada's mother died before she could regularize his status, and adoption proceedings by his aunt were begun too late to affect his immigration status. H.R. 2760 presents the only option for Mr. Yamada to remain in the United States.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 2760.

COMMITTEE CONSIDERATION

On February 26, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 2760, favorably reported, without amendment, by voice vote, a quorum being present. On April 2, 2008, the Committee met in open session and ordered the bill, H.R. 2760, favorably reported without amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 2760.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2760, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2760, a bill for the relief of Shigeru Yamada.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 2760—A bill for the relief of Shigeru Yamada.

H.R. 2760 would make Shigeru Yamada eligible for permanent residence in the United States. CBO estimates that enacting this legislation would have no significant impact on the Federal budget.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2760 would make Shigeru Yamada eligible for adjustment of his status to that of a lawful permanent resident.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2760 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Permanent Resident Status for Shigeru Yamada. Subsection (a) provides that, notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Shigeru Yamada is eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

Subsection (b) provides that if Shigeru Yamada enters the United States before the filing deadline specified in subsection (c), he must be considered to have entered and remained lawfully and, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

Subsection (c) provides that subsections (a) and (b) apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

Subsection (d) provides that, upon the granting of an immigrant visa or permanent residence to Shigeru Yamada, the Secretary of State must instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

Subsection (e) provides that the natural parents, brothers, and sisters of Shigeru Yamada must not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

AGENCY VIEWS

The comments of the Department of Homeland Security on H.R. 2760 are as follows:

Office of Congressional Relations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

NOV 28 2007

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship,
Refugees, Border Security & International Law
Committee on the Judiciary
U. S. House of Representatives
Washington, DC 20510

Dear Madam Chairwoman:

In response to your request for a report relative to H.R. 2760, for the relief of Shigeru Yamada, enclosed is a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act or for adjustment of status to lawful permanent resident.

We hope the information provided is useful. If we may be of further assistance, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie Zuieback", written over a circular stamp.

Jamie E. Zuieback
Director
Office of Congressional Relations

Enclosure

**Department of Homeland Security
Immigration and Customs Enforcement
Memorandum of Information for H.R. 2760, 110th Congress**

Shigeru YAMADA (A 97 476 166) is the beneficiary of H.R. 2760, private legislation introduced by Rep. Bob Filner (D-CA). An identical bill, S. 418, was introduced in the Senate by Sen. Diane Feinstein (D-CA). Sen. Feinstein previously introduced S. 111 (109th Congress) and S. 2548 (108th Congress), identical bills to benefit Mr. Yamada. Neither of these bills were acted upon. Mr. Yamada was interviewed on May 18, 2007, for the purpose of updating information contained in previous reports to the Senate subcommittee.

Shigeru YAMADA, a native and citizen of Japan, was born March 26, 1982. He last entered the United States on March 27, 1992, as a non-immigrant visitor and has been living in the United States since. YAMADA entered the United States when he was 10 years old, and lived with his mother and two sisters until the death of his mother in a traffic accident on September 19, 1995. He then went to live with his maternal aunt and uncle in the San Diego area, and continued to live with his aunt and uncle until January, 2003. He currently lives with three roommates in the Spring Valley, CA area.

YAMADA graduated from Eastlake High School in June, 2000, with honors. He was a volunteer coach at Eastlake High School and Otay Ranch High School from September, 2000, until January, 2002. From January, 2002, he attended Southwestern Community College, earning an Associates Degree in General Studies in June, 2005.

He is currently employed at Nordstrom Department Store, (619) 295-4441, 6997 Friars Road, San Diego CA 92108 as a Sales Associate, and has been employed with Nordstrom since September, 2004.

YAMADA provided copies of his 2006 Federal Income Tax return, which indicate an adjusted gross income of \$45,114. He stated his total assets are worth approximately \$25,000.

On May 15, 2007, the National Crime Information Center and California Index Identifier were queried for criminal histories on Shigeru YAMADA. NCIC revealed YAMADA had been issued FBI#386666EC7 on May 10, 2004, after his arrest on April 26, 2004, by the U.S. Border Patrol. YAMADA was issued a Notice to Appear for Removal Proceedings, which were terminated without prejudice by the Immigration Judge on June 15, 2004. Mr. YAMADA was granted Prosecutorial Discretion on July 8, 2004, and deferred action granted. These actions closely followed the introduction of S. 2548 by Sen. Feinstein on June 18, 2004, and the initial request for a report by the Senate subcommittee on July 15, 2004, which resulted in the placing of a stay on deportation proceedings and which remains in place.

ADDITIONAL VIEWS

Meritorious private bills should either represent unique and compelling circumstances or fit within private bill precedent of the modern era (from the 97th Congress onward, following the AB-SCAM private bill scandal).

This private bill does fit within private bill precedent. Private immigration bills have been enacted where the aliens (usually illegally present) had been abandoned by their parents or the parents had died. For instance, in the 106th Congress, a private bill was enacted that granted permanent residence to Tony Larza.¹ Tony entered the U.S. illegally with his sister from El Salvador when he was 10 years old to join his parents, who were living in Los Angeles. After his mother returned to El Salvador, she died. His father abandoned Tony and his sister and was later deported. After they lived in neglect with an uncle, neighbors adopted his sister but could not afford to also adopt Tony. At age 16, he started living with his high school wrestling coach. He has graduated high school. The private bill granted Tony permanent residence.

And, in the 108th Congress, a private bill was enacted that granted permanent residence to Richi Lesley.² Richi was born in Korea to an unknown U.S. serviceman and a Korean woman. She put him up for adoption and he was adopted by another American serviceman and his wife (who had also adopted another Korean girl). The husband was killed in a fishing accident while living in Japan and his wife became unable to care for the two young children. However, the serviceman's mother in the U.S. agreed to take the children in and they were granted visitor's visas to come to the U.S. (while Richi was still 1 year old). Following the death of the adoptive grandmother, the children lived with other family and friends. The private bill granted Richi permanent residence.

A DHS report on Mr. Yamada was received on November 28, 2007, and contained no derogatory information. Because H.R. 2760 fits within private bill precedent and the DHS report contained no derogatory information, this is a meritorious private bill.

LAMAR SMITH.



¹See Priv. L. No. 106-22.

²See Priv. L. No. 108-3.